THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.1673 of 1999

DATED:14.03.2006

Between:

N. Subramanyam ..Petitioner

And

Gudur Municipality, represented by its Commissioner, Gudur Municipality, Gudur, Nellore District. and another. ..Respondents

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ORDER:

The petitioner was a lessee of a municipal shop situated at Old Bus Stand, Gudur. He allegedly continued as such for about 25 years and running a cool drink shop enhancing the rent triennially. At the instance of some counsellors, the first respondent with the help of the second respondent is threatening to remove the bunk. Apprehending coercive eviction, the petitioner filed the present writ petition.

A counter-affidavit is filed by both the respondents. The second respondent denied the allegations that coercive steps are being taken against the petitioner. The first respondent in its counter states that the petitioner is a leaseholder of a wooden bunk, which was extended up to 31.03.1989. Thereafter, the lease was not extended, as the petitioner was committed default in payment of rents for about ten months. After the municipality constructed 38 shop rooms in the Old Bus Stand, the petitioner was trying to construct a shop in the place of a bunk, which he encroached and that he is not a lessee of the area. The other allegations made by the petitioner are denied.

The petitioner has not chosen to file any reply affidavit, which shows that the counter averments stand unrebutted and proved. Secondly, even according to the first respondent-Municipality, the petitioner is an encroacher, and in that view of the matter, unless and until appropriate action is taken against the petitioner under Section 194 of the A.P. Municipalities Act, 1965, the Public Authority cannot be permitted to resort to coercive action. Liberty is given to the first respondent to take such action, if the petitioner is still occupying the municipal land.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

14.03.2006

GJ